

KENNETH R. O'ROURKE (S.B. #120144)
korourke@omm.com

O'MELVENY & MYERS LLP
400 South Hope Street, 18th Floor
Los Angeles, California 90071-2899
Telephone: (213) 430-6000
Facsimile: (213) 430-6407

Attorneys for Defendants
Alaska Air Group, Inc. and Alaska Airlines, Inc.

JOSEPH M. ALIOTO (S.B. #42680)
JAMIE L. MILLER (S.B. #271452)
jmalieto@aliotolaw.com
jmliller@aliotolaw.com

ALIOTO LAW FIRM
One Sansome Street, 35th Floor
San Francisco, CA 94104
Telephone: (415) 434-8900
Facsimile: (415) 434-9200

Attorneys for Plaintiffs
DANIEL GRACE, et al.

[Additional Counsel on Signature Page]

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

DANIEL GRACE, et al.,

Plaintiffs,

v.

ALASKA AIR GROUP, INC., et al.,

Defendants.

Case No. 16-cv-05165-WHA

**JOINT SUBMISSION REGARDING
PRE-TRIAL AND TRIAL SCHEDULE;
[PROPOSED] ORDER REGARDING
SAME**

Pursuant to this Court's October 19, 2016 Order, counsel for Plaintiffs and Defendants (the "Parties") met and conferred regarding a proposed expedited trial schedule. The Parties have agreed on most aspects of a pretrial and trial schedule, with the following exceptions for which the Court's guidance is needed:

(1) Trial start date: Defendants propose a trial start date of Monday, December 5, 2016. Plaintiffs propose a trial start date of Monday, December 12, 2016.

(2) Trial length: Defendants propose a four-day trial with closing arguments on the fifth day. Plaintiffs propose five court days for trial, including closing arguments.

(3) Trial time allotment: Defendants propose an equal allotment of hours for each side for opening statements, presenting evidence, and closing arguments. Plaintiffs propose that the presentation of evidence be allotted substantially equally between the parties subject to the Court's supervision as the needs of the trial may dictate.

Other than these three matters, the Parties have agreed to the following Internal Dates, subject to the Conditions and Limitations stated below the table:

//

//

//

//

//

//

//

//

//

//

//

//

//

//

Event	Defendants' Proposed Dates for December 5 Trial	Plaintiffs' Proposed Dates for December 12 Trial
Discovery Opens	Tuesday, October 25, 2016 <ul style="list-style-type: none"> On October 25, 2016, Defendants to begin production of their HSR Documents to Plaintiffs. On October 25, 2016, Plaintiffs to begin providing an identification of which Plaintiffs have flown or booked Alaska and/or Virgin America flights within the past five (5) years, including the routes and dates flown or booked, and any purchased or booked Alaska and/or Virgin flights for travel within the next six (6) months, and their frequent flyer numbers, if any, with Alaska and Virgin. On October 25, 2016, Plaintiffs to begin production of all documents on which their allegations are based. Both Parties' productions to be completed by October 28, 2016. 	Tuesday, October 25, 2016 <ul style="list-style-type: none"> On October 25, 2016, Defendants to begin production of their HSR Documents to Plaintiffs. On October 25, 2016, Plaintiffs to begin providing an identification of which Plaintiffs have flown or booked Alaska and/or Virgin America flights within the past five (5) years, including the routes and dates flown or booked, and any purchased or booked Alaska and/or Virgin flights for travel within the next six (6) months, and their frequent flyer numbers, if any, with Alaska and Virgin. On October 25, 2016, Plaintiffs to begin production of all documents on which their allegations are based. Both Parties' productions to be completed by October 28, 2016.
Exchange Initial Witness List (non-binding, good faith list)	Tuesday, November 8, 2016	Monday, November 14, 2016
Exchange Initial Trial Exhibit List (non-binding, good faith list)	Thursday, November 10, 2016	Thursday, November 17, 2016
Exchange Final Witness List	Thursday, November 17, 2016	Friday, December 2, 2016

Event	Defendants' Proposed Dates for December 5 Trial	Plaintiffs' Proposed Dates for December 12 Trial
Exchange of Expert Disclosure/Reports	Thursday, November 17, 2016	Wednesday, November 23, 2016
Close of Fact Discovery	Wednesday, November 23, 2016	Friday, December 2, 2016
Exchange Supplemental/ Rebuttal Expert Reports	Wednesday, November 23, 2016	Wednesday, November 30, 2016
Exchange Final Trial Exhibit List	Monday, November 28, 2016¹	Monday, December 5, 2016²
Joint Pretrial Order	Monday, November 28, 2016	Monday, December 5, 2016
Close of Expert Discovery	Wednesday, November 30, 2016	Wednesday, December 7, 2016
Trial Brief	Wednesday, November 30, 2016	Friday, December 9, 2016
Pretrial Conference	Thursday, December 1, 2016	Thursday, December 8, 2016
Trial Start Date	Monday, December 5, 2016 <ul style="list-style-type: none"> • Trial duration: <ul style="list-style-type: none"> ○ Four (4) court days for opening statements and evidence to be presented. ○ The total hours allotted for trial shall be equally divided among the two sides. 	Monday, December 12, 2016 <ul style="list-style-type: none"> • Trial duration: <ul style="list-style-type: none"> • Five (5) court days, for opening statements and evidence to be presented and closing arguments. • The time for presenting of evidence shall be allotted substantially equally between the parties subject to the Court's supervision as the needs of the trial may dictate.
Trial Evidence Ends	Thursday, December 8, 2016	Friday, December 16, 2016
Closing Arguments	Friday, December 9, 2016 <ul style="list-style-type: none"> • One (1) hour per side 	Friday, December 16, 2016

¹ Exhibits arising in connection with expert depositions taken on or after November 28, 2016, may be added to the Final Trial Exhibit List.

² Exhibits arising in connection with expert depositions taken on or after December 5, 2016, may be added to the Final Trial Exhibit List.

CONDITIONS AND LIMITATIONS:

Confidentiality: Documents produced to the other side that are designated as Confidential shall be maintained as Attorneys' of Record (including their firms), Plaintiffs' Committee's, Alaska's In-House Counsel's, and Retained Experts' "Eyes Only." The Plaintiffs' Committee shall be no more than five (5) named plaintiffs, selected by Plaintiffs' counsel, who shall sign a declaration agreeing not to disclose the other side's Confidential information to anyone aside from Plaintiffs' counsel, or use the information for any purpose other than this litigation. Alaska's In-House Counsel shall be two in-house lawyers with Alaska who shall sign a declaration agreeing not to disclose the other side's Confidential information to anyone aside from Defendants' counsel, or use the information for any purpose other than this litigation. After a Protective Order is entered by the Court, the documents shall be maintained in accordance with the terms of the Protective Order.

Deposition Limits: Parties to meet and confer on location, number, and length of depositions.

Trial Witnesses May Be Deposed: Notwithstanding the deposition limit, if any, and the scheduled Close of Fact Discovery, if a party identifies a witness on its Final Witness List that it did not identify on its Initial Witness List, the disclosing party shall provide the witness for deposition on reasonable notice before the Pretrial Conference.

Final Exhibit List: Notwithstanding the Close of Fact Discovery, if a party identifies documents on its Final Trial Exhibit List that were not previously produced in discovery, the opposing side will be permitted to conduct necessary discovery related to such newly-identified exhibits.

Internal Dates: The Parties may, by stipulation, agree to modify these dates for good cause, except for the following dates, which may only be changed by Court order: submission of Joint Pretrial Order, submission of Trial Brief, the Pretrial Conference, and the Trial Start Date.

//

//

//

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Respectfully submitted,

Dated: October 21, 2016

JOSEPH M. ALIOTO
JAMIE L. MILLER
ALIOTO LAW FIRM

GIL D. MESSINA *Pro Hac Vice Forthcoming*
MESSINA LAW FIRM, P.C.
961 Holmdel Road Holmdel, NJ 07733
Telephone: (732) 332-9300
Facsimile: (732) 332-9301 Email:
gmessina@messinalawfirm.com

LAWRENCE G. PAPALE (SBN 67068)
LAW OFFICES OF LAWRENCE G. PAPALE
The Cornerstone Building 1308 Main Street,
Suite 117 St. Helena, CA 94574
Telephone: (707) 963-1704
Facsimile: (707) 963-0706
Email: lgpapale@papalelaw.com

CHRISTOPHER A. NEDEAU (SBN 81297)
Attorney at Law
NEDEAU LAW FIRM
154 Baker Street San Francisco, CA 94117
Telephone: 415-516-4010
Email: cneudeau@nedeaulaw.net

By: /s/ Jamie L. Miller
Jamie L. Miller

Attorney for Plaintiffs
DANIEL GRACE, et al.

1
2 Dated: October 21, 2016

KENNETH R. O'ROURKE
O'MELVENY & MYERS LLP

3 RICHARD PARKER
4 BENJAMIN G. BRADSHAW
O'MELVENY & MYERS LLP
5 rparker@omm.com
bbradshaw@omm.com
O'MELVENY & MYERS LLP
6 1625 Eye Street, NW
Washington, DC 20006
7 Telephone: (202) 383-5300
8 Facsimile: (202) 383-5414

9 By: /s/ Kenneth R. O'Rourke
Kenneth R. O'Rourke

10
11 Attorney for Defendants
12 ALASKA AIR GROUP, INC. AND ALASKA
AIRLINES, INC.

13
14 **ATTESTATION CLAUSE**

15 I, Kenneth R. O'Rourke, hereby attest in accordance with Local Rule 5-1(i)(3) that each
16 signatory has concurred in the filing of this document.

17
18 Dated: October 21, 2016

RICHARD PARKER
KENNETH R. O'ROURKE
BENJAMIN G. BRADSHAW
O'MELVENY & MYERS LLP

21
22 /s/ Kenneth R. O'Rourke
23 Kenneth R. O'Rourke

[PROPOSED] ORDER

PURSUANT TO THE JOINT SUBMISSION REGARDING PRE-TRIAL AND TRIAL SCHEDULE, IT IS HEREBY ORDERED:

Trial shall commence on December ____, 2016. The corresponding dates for pretrial and the Conditions and Limitations as stated in the JOINT SUBMISSION REGARDING PRE-TRIAL AND TRIAL SCHEDULE shall apply. Trial duration shall be ____, and trial time per side shall be ____.

IT IS SO ORDERED.

Dated: October ____, 2016

Hon. William Alsup
United States District Judge